

## HOUSE OF REPRESENTATIVES STAFF ANALYSIS

**BILL #:** HB 61 Public Broadcasting Program System

**SPONSOR(S):** Clarke-Reed

**TIED BILLS:** **IDEN./SIM. BILLS:** SB 120

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) K-20 Competitiveness Subcommittee		Beagle	Ahearn
2) PreK-12 Appropriations Subcommittee			
3) Education Committee			

### SUMMARY ANALYSIS

The bill expands eligibility for state funding for educational television to include “nondenominational full-power educational television stations licensed by the Federal Communications Commission (FCC) as of July 1, 2012.” The bill further authorizes the Florida Department of Education (DOE) to provide funding, equipment, or other services to such television stations. New stations eligible for funding must provide:

- A first service to an audience that is not currently receiving a broadcast signal; or
- A significant new program service as defined by State Board of Education rule.

Based upon FCC data regarding Florida television stations licensed as full-power educational television stations, the net impact of the bill is the possible addition of up to four currently existing television stations to the 14 stations that currently receive state funding for educational television.

The Corporation for Public Broadcasting (CPB) provides federal grants to eligible television stations. Stations that receive these grants comprise the national public television broadcasting system. Florida law establishes a statewide public broadcasting system (PBS) to provide state support for, among other things, educational television. The Florida PBS is administered by DOE. The law requires DOE to provide support to:

- Educational television stations currently funded by CPB; and
- New stations, i.e., stations not funded by CPB, which meet CPB’s qualifications for funding. In order to receive funding, a new station must provide:
  - A first service to an audience not currently served by PBS; or
  - A significant new program service as defined by State Board of Education rule.

Florida’s PBS consists of 14 television stations, each of which is also funded by CPB. Florida’s 14 PBS television stations provide 99 percent coverage to the state. The 2011-12 General Appropriations Act provided a total \$3,996,811 in General Revenue for PBS television stations. This appropriation was vetoed by the Governor.

The bill does not have a fiscal impact on state or local governments; however, it expands eligibility for state funding for educational television to include additional stations. If new stations are determined to be eligible, the bill will reduce the total amount of funding received by each eligible television station. See Fiscal Comments.

Because the bill does not define “nondenominational” and contains other drafting issues, DOE’s ability to determine whether nondenominational full-power educational television stations are eligible for state funding is impaired. See Drafting Issues and Other Comments.

The bill takes effect July 1, 2012.

This document does not reflect the intent or official position of the bill sponsor or House of Representatives.

STORAGE NAME: h0061.KCOS

DATE: 1/23/2012

## FULL ANALYSIS

### I. SUBSTANTIVE ANALYSIS

#### A. EFFECT OF PROPOSED CHANGES:

##### Present Situation

##### **Public Television Broadcasting**

The federal Public Broadcasting Act establishes the Corporation for Public Broadcasting (CPB) to support, among other things, the establishment of a national system of public television broadcasting.<sup>1</sup> CPB receives an annual appropriation from Congress and provides federal grants to eligible television stations.<sup>2</sup> Stations that receive CPB grants comprise the national public television broadcasting system. In order to qualify for a FY 2012 CPB grant, a television station must have received a grant in FY 2011 and operate under a “noncommercial educational license granted by the Federal Communications Commission (FCC).” CPB’s requirement that television stations be prior grant recipients, in effect, limits further expansion of the national public television broadcasting system.<sup>3</sup>

Florida law establishes a statewide public broadcasting system (PBS) to provide state support for, among other things, educational television. The PBS is administered by the Florida Department of Education (DOE).<sup>4</sup> DOE is authorized to provide equipment, funding, and other services to eligible television stations.<sup>5</sup> The law requires DOE to provide support to:

- Educational television stations currently funded by CPB; and
- New stations, i.e., stations that are not funded by CPB, which meet CPB’s qualifications for funding. In order to receive funding, a new station must provide:
  - A first service to an audience not currently served by PBS; or
  - A significant new program service as defined by State Board of Education rule.<sup>6</sup>

Florida’s PBS consists of 14 television stations, each of which is an existing CPB-funded educational television station.<sup>7</sup> DOE interprets state law as authorization to limit further expansion of the PBS “after having determined a sufficient number of stations exist [to achieve] statewide coverage.”<sup>8</sup> Florida’s 14 PBS television stations provide 99 percent coverage to the state. Three such stations serve

---

<sup>1</sup> 47 U.S.C. s. 396(a)(1) and (g)(1)(C). CPB is also responsible for the national system of public radio. *Id.*

<sup>2</sup> 47 U.S.C. s. 396(k)(3) and (6).

<sup>3</sup> Corporation for Public Broadcasting, *FY2012 Television Community Service Grant General Provisions and Eligibility Criteria*, at 4 (2012), available at [http://www.cpb.org/stations/grants/tv/generalprovisions/cpb\\_12TV\\_CSG\\_GeneralProvisions.pdf](http://www.cpb.org/stations/grants/tv/generalprovisions/cpb_12TV_CSG_GeneralProvisions.pdf). [hereinafter *TCSG 2012*]. Although other grants are administered by CPB, the Television Community Service Grant is the primary source of federal funding for public television. Corporation for Public Broadcasting, *Appropriation Request and Justification for FYs 2012 and 2014*, at 6 (Feb. 2011), available at [http://www.cpb.org/appropriation/justification\\_12-14.pdf](http://www.cpb.org/appropriation/justification_12-14.pdf).

<sup>4</sup> Section 1001.26(1), F.S. The Florida PBS also includes public radio. *Id.*

<sup>5</sup> Section 1001.26(2)(c), F.S. Educational television and radio stations owned by a district school board, a Florida College System institution board of trustees, a university board of trustees, and the board of trustees for the Florida School for the Deaf and the Blind may also request Public Education and Capital Outlay funds. Section 1013.18, F.S.

<sup>6</sup> Section 1001.26(1)(a) and (2)(c), F.S.

<sup>7</sup> Florida Department of Education, *Legislative Bill Analysis for SB 120* (2012). Florida PBS stations include WBCC-TV Cocoa Beach, WDSC-TV Daytona Beach, WGPU-TV Fort Myers, WUFT-TV Gainesville, WJCT-TV Jacksonville, WLRN-TV Miami, WPBT-TV Miami, WMFE-TV Orlando, WFSU/WFSG-TV Panama City, WSRE-TV Pensacola, WFSU-TV Tallahassee, WUSF-TV Tampa, WEDU-TV Tampa, and WXEL-TV West Palm Beach. Florida Department of Education, *Florida Public Television Stations*, [http://www.floridaknowledgenetwork.org/PB/TV\\_Stations\\_text.asp](http://www.floridaknowledgenetwork.org/PB/TV_Stations_text.asp) (last visited Jan. 17, 2012) [hereinafter *Florida PBS*]. According to DOE, WFSU-TV Tallahassee and WFSU/WFSG-TV Panama City are treated as one station for funding purposes. Telephone interview with Program Analyst, Florida Department of Education (Jan. 17, 2012).

<sup>8</sup> Florida Department of Education, *Legislative Bill Analysis for SB 120* (2012); Telephone interview with Program Analyst, Florida Department of Education (Jan. 17, 2012).

southeastern Florida.<sup>9</sup> The 2011-12 General Appropriations Act provided a total of \$3,996,811 in General Revenue for PBS television stations. This appropriation was vetoed by the Governor.<sup>10</sup>

## BECON-TV

Broward Education Communications Network (BECON-TV) is owned and operated by the School Board of Broward County and provides educational programming to the south Florida community. BECON-TV is licensed by FCC as a full-power, noncommercial educational television station.<sup>11</sup> BECON-TV is not included in the national or Florida PBS and, as such, does not receive state or CPB funding for educational television.<sup>12</sup> BECON-TV received line item appropriations in 2006 (\$250,000) and 2011 (\$21,000). Both appropriations were vetoed by the Governor.<sup>13</sup>

### Effect of Proposed Changes

The bill expands eligibility for state funding for educational television to include “nondenominational full-power educational television stations licensed by the FCC as of July 1, 2012.” The bill further authorizes DOE to provide funding, equipment, or other services to such television stations. To receive funding, such television stations must provide:

- A first service to an audience that is not currently receiving a broadcast signal; or
- A significant new program service as defined by State Board of Education rule.

Thus, “nondenominational full-power educational television stations licensed by the FCC as of July 1, 2012,” may receive state funding for educational television if they can demonstrate that they will reach a new audience or provide a “significant new program service” defined in state board rule. The current PBS provides 99 percent coverage to the state and a state board rule defining “significant new program service” has not been adopted. These factors may prevent any new stations from being funded under the bill.

In addition, the bill does not define the term “nondenominational,” which may impair DOE’s ability to determine eligibility for funding. Webster’s dictionary defines “denomination” as “a religious organization whose congregations are united in their adherence to its beliefs and practices.”<sup>14</sup> The prefix “non” implies “not” denominational. However, because the term “nondenominational” is not defined in the context of the bill, it is unclear whether it is the sponsor’s intent to generally exclude stations with religious programming or religious content or simply exclude stations that identify themselves by a specific religious affiliation, e.g., Methodists, Baptists, Roman Catholic. See Fiscal Comments and Drafting Issues and Other Comments.

## B. SECTION DIRECTORY:

**Section 1.** Amends s. 1001.26, F.S., relating to Florida’s public broadcasting system; authorizes nondenominational full-power educational television stations licensed by the FCC as of July 1, 2012, to receive state funding for educational television if certain requirements are met.

---

<sup>9</sup> Florida Department of Education, *Legislative Bill Analysis for SB 120* (2012).

<sup>10</sup> Specific Appropriation 93, s. 2, ch. 2011-69, L.O.F. The amount allocated to each station is \$307,447. This amount is distributed to the 14 PBS TV stations in 13 shares because WFSU-TV Tallahassee and WFSU/WFSG-TV Panama City are treated as one station for funding purposes. Telephone interview with Program Analyst, Florida Department of Education (Jan. 17, 2012).

<sup>11</sup> BECON-TV, *About BECON*, <http://www.becon.tv/about-becon> (last visited Jan. 15, 2012). Generally speaking, educational broadcast stations are licensed only to noncommercial or nonprofit educational organizations upon a showing that the proposed stations will be used primarily to serve the educational needs of the community; for the advancement of educational programs; and to furnish a nonprofit and noncommercial television broadcast service. 47 C.F.R. s. 73.621(a).

<sup>12</sup> BECON-TV holds the same type of FCC license as stations qualifying for federal CPB funds; however, it is not a prior grantee of such funds. Thus, it has been unable to gain entry into the national PBS or “meet CPB qualifications,” as required by state law for the purpose of receiving state PBS funding. See *TCSG 2012*, *supra*, note 3 at 4-5.

<sup>13</sup> Specific Appropriation 124, s. 2, ch. 2006-25, L.O.F.; Specific Appropriation 91A, s. 2, ch. 2011-69, L.O.F. The 2006 appropriation was vetoed by then Governor Crist, and the 2011 appropriation was vetoed by Governor Scott. *Id.*

<sup>14</sup> Merriam-Webster’s Dictionary (11<sup>th</sup> Ed. 2008).

## **II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT**

### **A. FISCAL IMPACT ON STATE GOVERNMENT:**

1. Revenues:

None.

2. Expenditures:

See Fiscal Comments.

### **B. FISCAL IMPACT ON LOCAL GOVERNMENTS:**

1. Revenues:

None.

2. Expenditures:

None.

### **C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:**

None.

### **D. FISCAL COMMENTS:**

Based upon FCC data regarding Florida television stations licensed as full-power educational television stations, the net impact of the bill is the possible addition of up to four television stations to the 14 stations that currently receive state funding for educational television.<sup>15</sup> The websites of three of these four television stations indicate that they provide at least some religious programming.<sup>16</sup> The remaining station, BECON-TV, does not provide religious programming.<sup>17</sup> The bill's requirement that a television station must be nondenominational to receive state funding may disqualify the three religious stations; however, the term nondenominational is not defined. Furthermore, nothing prevents these three stations from switching to a secular format to become eligible for state funding.

Appropriations for public television and radio stations were vetoed for FY 2011-12, including \$3,996,811 for the 14 public television stations.<sup>18</sup> The total appropriation was to be divided into 13 shares equaling \$307,447 because WFSU-TV Tallahassee and WFSU/WFSG-TV Panama City are treated as one station for funding purposes.<sup>19</sup> If the same amount is appropriated in FY 2012-13, the addition of one station to the current funding pool would reduce funding to approximately \$285,486 per eligible television station. If all four stations currently licensed as full-power educational television stations are funded at the FY 2011-12 level, the per-station funding amount would be \$235,106 per station.

To be eligible for state funding, a nondenominational full-power educational television station must still demonstrate that it provides a first service to an area not currently reached by the Florida PBS or a significant new program service defined in state board rule. Florida's 14 PBS television stations provide

---

<sup>15</sup> Email, Federal Communications Commission, Television Licensing Staff (Oct. 28, 2011).

<sup>16</sup> WTGL-TV Leesburg, <http://www.tv45.org/> (last visited Jan. 17, 2012); WJEB-TV Jacksonville, <http://www.wjeb.org/> (last visited Jan. 17, 2012); WTCE-TV Fort Pierce, <http://www.wtce.tv/> (last visited Jan. 17, 2012).

<sup>17</sup> BECON-TV, *About BECON*, <http://www.becon.tv/about-becon> (last visited Jan. 15, 2012).

<sup>18</sup> SB 2000, General Revenue funds in Specific Appropriation 93. Correspondence to the Secretary of State, May 26, 2011. See [http://www.flgov.com/wp-content/uploads/budget/sb\\_2000\\_vetomessage.pdf](http://www.flgov.com/wp-content/uploads/budget/sb_2000_vetomessage.pdf).

<sup>19</sup> Specific Appropriation 93, s. 2, ch. 2011-69, L.O.F.; Telephone interview with Program Analyst, Florida Department of Education (Jan. 17, 2012).

99 percent coverage to the state and a state board rule defining “new program service” has not been adopted. These factors may prevent any new stations from being funded under the bill. See Drafting Issues and Other Comments.

Under the bill, nondenominational full-power educational television stations may become eligible for funding if they are licensed by the FCC as of July 1, 2012. Thus, any television station not presently holding this type of license that obtains such a license on or before July 1, 2012, could become eligible for state funding. This may result in additional stations being added to the funding pool for educational television. See Drafting Issues and Other Comments.

### **III. COMMENTS**

#### **A. CONSTITUTIONAL ISSUES:**

##### **1. Applicability of Municipality/County Mandates Provision:**

Not Applicable. This bill does not appear to affect county or municipal governments.

##### **2. Other:**

None.

#### **B. RULE-MAKING AUTHORITY:**

None.

#### **C. DRAFTING ISSUES OR OTHER COMMENTS:**

Lines 27 and 37: The bill does not define the term “nondenominational.” Consideration might be given to adding a definition of this term to assist DOE in determining eligibility for funding.

Lines 37-47: At lines 37-39, the bill adds provisions authorizing DOE to provide funding, equipment, or other services to “nondenominational television stations licensed as of July 1, 2012, by the FCC as full power educational broadcast stations.” Lines 39-43, which is existing law, state that, to be eligible for state funding, new stations must provide:

1. A first service to an audience that is not already served by PBS; or
2. A significant new program service as defined by State Board of Education.

Thus, full-power educational broadcast stations seeking state funds must satisfy one of these two eligibility criteria to receive state funding. Florida’s 14 PBS television stations already provide 99 percent coverage to the state. Therefore, it is unlikely a new television station will provide service to a new audience. Furthermore, the state board has not adopted a rule defining “new program service.” Thus, no criteria exist for determining if a station provides a “significant new program service.”

Lines 27-30 and 37-39: Under the bill, nondenominational full-power educational television stations are eligible for state funding if they are licensed by the FCC as of July 1, 2012. FCC indicates that there are four television stations currently licensed as full-power educational television stations that do not already receive state funding for educational television. The bill leaves open the possibility that additional stations could obtain this type of license between the present and July 1, 2012, and become eligible for state funding.

### **IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES**

Not Applicable.